

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct.

Group I: Claims 1-6, 19-21 and 23-24, drawn to a cosmetic or pharmaceutical composition.

Group II: Claims 7-15, drawn to a copolymer A).

Group III: Claims 16-18, drawn to a process for the preparation of copolymer A).

Group IV: Claims 22 and 25, drawn to a method of coating a substrate.

Group V: Claims 26-27, drawn to a method of making a pharmaceutical composition.

Applicants provisionally elect, with traverse the invention of Group II, Claims 7-15 drawn to a copolymer (A).

Restriction is only proper if the claims of the restricted Groups are patentably distinct, and there would be a serious burden placed on the examiner if restriction is not required (M.P.E.P. §803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions in regard to patentable distinction. Final product, intermediate, critical to the first product, and method of use should be examined together as combination sub-combination. It is a technical relationship that defines the contribution which each of the Groups taken as a whole makes over the prior art.

Different classification of subject matter to be divided is not conclusive proof of independent status and divisibility. Product, method of making, and the use thereof are considered related inventions under 37 C.F.R. §1.475(b) and unity of invention between the exists.

Applicants respectfully traverse on the additional grounds that the Office has not shown that a burden exists in searching the entire application.

Further, the M.P.E.P. §803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits even though it includes claims to distinct and independent inventions.

Applicants submit that a search of all the claims would not constitute a serious burden on the Office. In fact, the International Search Authority has search all of the claims together. As the Office has not shown any evident that restriction should now be required when the International Preliminary Report did not, the restriction is believed to be improper. 37 C.F.R. §1.475(b) provides in relevant part that “a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are to ... (3) product, process adapted for the manufacture of said product, and a use of said product.”

For the reasons set forth above, Applicants request that the restriction requirement be withdrawn.

Applicants further request that if the invention of Group II is found allowable, withdrawn Groups I, and III to V, which include the limitation of the allowable claims, be rejoined.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)



Paul J. Killos
Registration No. 58,014